

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **05 -MSRC- 008**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

vs.

FINAL ORDER REGARDING LARRY CHAPMAN

LARRY CHAPMAN

RESPONDENT

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent **Larry Chapman**, and the members of the Commission having reviewed the Settlement Agreement filed on May 23, 2005 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**. A copy is attached hereto;
3. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the

Respondent not arising from the factual basis of the original violation and resolved herein.

4. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
5. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
6. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 26TH day of MAY 2005.



MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 27TH day of May 2005:

LARRY CHAPMAN
13192 GRAPEVINE ROAD
PHYLLIS, KY 41554
Respondent

And by messenger mail to:

HON. TONY OPPEGARD
GENERAL COUNSEL
OFFICE OF MINE SAFETY & LICENSING
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

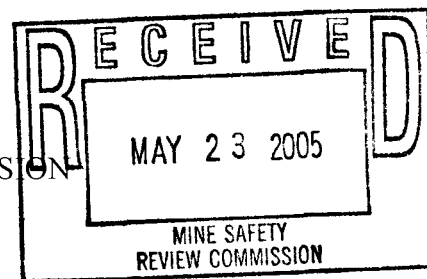
And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601



Bryan Alan Thompson
General Counsel
Mine Safety Review Commission

KENTUCKY MINE SAFETY REVIEW COMMISSION



KY. OFFICE OF MINE SAFETY & LICENSING)

Complainant)

v.)

Administrative Action No. 05-MSRC-008

LARRY CHAPMAN)

Respondent)

SETTLEMENT AGREEMENT

Come the Complainant, the Kentucky Office of Mine Safety & Licensing ("OMSL"), and the Respondent, Larry Chapman ("Chapman"), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the final resolution of this action against him,¹ Chapman hereby admits that he violated KRS 352.210 and KRS 352.220 (1)(s) on March 11, 2005, as set forth in paragraphs 5- 8 of OMSL's Complaint, and agrees to the following::

1. The **REVOCATION OF HIS ELECTRICIAN'S CERTIFICATE (# PE-205-04)** **FOR A MINIMUM PERIOD OF ONE (1) YEAR**, effective upon the signing of this Settlement Agreement by both parties. Chapman shall surrender his electrician's card to a representative of OMSL upon the signing of this Settlement Agreement.

2. Within 60 days of the effective date of this Settlement Agreement, Chapman shall take

¹ OMSL and Chapman are filing a joint motion with the Mine Safety Review Commission ("the Commission") to approve the Settlement Agreement and dismiss this action.

4-8 HOURS OF SPECIAL ELECTRICAL TRAINING FROM DAVID JOHNSON, OMSL'S CHIEF ELECTRICAL INSPECTOR, at OMSL's district office in Hazard.²

3. If Chapman wants to become re-certified as an electrician in Kentucky after he has taken the special electrical training set forth in paragraph 2, and after the expiration of his one-year revocation period, he must **RE-TAKE AND PASS THE KENTUCKY ELECTRICAL EXAMINATION**. Chapman may take the electrical examination at either OMSL's Hazard or Pikeville district office. **CHAPMAN'S ELECTRICIAN'S CERTIFICATE SHALL REMAIN REVOKED UNTIL HE HAS TAKEN SAID SPECIAL ELECTRICAL TRAINING AND PASSED THE KENTUCKY ELECTRICAL EXAMINATION.**

4. The **PROBATION OF HIS UNDERGROUND COAL MINER'S CERTIFICATE (#) FOR A PERIOD OF ONE (1) YEAR**, effective upon the signing of this Settlement Agreement by both parties.

5. During this one-year probationary period, Chapman shall comply with all state and federal mine safety laws and regulations. The willful violation by Chapman of any of said laws or regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his underground miner's certificate for the remainder of the probationary period.³

6. This Settlement Agreement and any final order issued herein by the Mine Safety

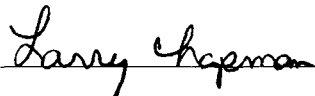
² Said special electrical training is in addition to any annual electrical training or other safety training that Chapman is legally required to take. In addition, the exact length of the special electrical training will be determined by Inspector Johnson at his discretion.

³ If the circumstances warranted, OMSL would also retain the right to file a separate action with the Commission seeking other penalties against Chapman for his actions. In either event, Chapman would have the right to a hearing before the Commission on the allegations against him.


Review Commission shall be considered by the Commission to constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1 (5); and any future adjudication against Chapman by the Commission - regarding a separate alleged offense - shall be deemed a "subsequent offense" as defined at 805 KAR 8:010, Section 1 (13).

Chapman understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Chapman further states that he has carefully read this Settlement Agreement (or that the Settlement Agreement has been read to him), that he has carefully considered the Agreement prior to signing it, and that he understands and agrees to its terms and provisions.

OMSL and Chapman acknowledge and agree that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.



LARRY CHAPMAN
13192 Grapevine Road
Phyllis, Kentucky 41554



PARIS L. CHARLES
Executive Director
Ky. Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

5-18-05
DATE

5/20/05
DATE

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement was mailed this
23RD day of MAY, 2005, to Larry Chapman, 13192 Grapevine Road, Phyllis,
Kentucky 41554.



TONY OPPEGARD
General Counsel

KY. OFFICE OF MINE SAFETY & LICENSING